

DRAFT MINUTES
Citizens Advisory Council Meeting
March 16, 2010

In Richard's absence, Vice-Chair Joyce Hatala convened the meeting at 11:55 a.m. The following members attended:

Joyce Hatala, Vice Chair
Cynthia Carrow
Jolene Chinchilli
Jim Clauser
Gail Conner
Eric Conrad
Walter Heine

Janet Keim
Curtis Kratz
David Strong
Burt A. Waite
John Walliser
Peter Wilshusen

I. CHAIR'S REPORT

Joyce announced some changes to the agenda, and then asked for a motion regarding the minutes of the February 16, 2010 CAC meeting. Burt moved adoption of the minutes, and Cynthia seconded the motion. The minutes were approved.

II. PUBLIC COMMENT

Grant Gulibon of the Builder's Association introduced himself, and indicated that he had no comment.

III. CNRAC UPDATE

Kurt Leitholf reported that CNRAC's budget was reduced by 1% generally across the board. DCNR is still expected to generate another approximate \$120 million from gas leasing, but DCNR is waiting to see if any of the legislatively proposed moratoriums move forward.

CNRAC and CAC staff have prepared a draft report on the 2009 regional meeting and a summary of the January joint educational session on severance taxes. He expects CNRAC to consider a statement on severance taxes at its March 24 meeting. CAC and CNRAC staff have also coordinated in sending both councils' transition reports to policy contacts in the gubernatorial campaign offices.

CNRAC felt that last year's joint regional meeting was very productive, and Kurt asked CAC to give consideration to holding another joint regional meeting in 2010.

CNRAC is considering undertaking a study related to funding for DCNR programs, and would inventory potential revenue sources, challenges they pose, and funding streams.

He commented on DEP's recent finding that mining was the apparent cause of damage at the dam at Ryerson Station State Park. DCNR is planning to rebuild the dam.

Burt asked if the \$120 million that DCNR needs to raise can include royalties that will be received once the gas wells begin to produce. Kurt agreed that this will be a significant funding source in the future, but no, this \$120 million would be expected to be generated from the direct leasing of additional state forest lands within the next year.

IV. COMMITTEE REPORTS

Strategic Planning Workgroup—Jolene reported that the workgroup discussed a list of potential issues to be discussed and considered for inclusion in the second phase of the transition report. Phase 2 will be intended for the transition team of the Governor-elect and the secretary-designee, and will include more specific issues. As a result of the discussion, the workgroup will prepare a draft workplan to guide the discussions and a draft format for the report.

Air Committee—John reported that the committee met with BAQ staff to discuss comments received on the Outdoor Wood Burner regulations. The department is still in the process of digesting the comments, including the just received comments from the IRRC, and may proceed to EQB in July. The Air committee will be preparing a draft letter regarding the very real public health need for these regulations. Dave suggested the regulations need to clarify what fuel can be used, and raised the concern that coal will in all likelihood be used even though the units are designed to burn only wood.

John reported that he has asked the committee to review air quality/health issues related to compressor station emissions. Dave asked if the committee could also look into whether or not any real environmental benefit is achieved by some of the emission controls; while the controls reduce the rate of emission, they affect efficiency and therefore fuel use, and may in fact increase the overall amount of pollution. John suggested that we add Dave to the committee.

John moved and Peter seconded approval of the draft letter concurring with proceeding to EQB with the low sulfur fuel regulation. The motion passed.

Joint Workgroup—Cynthia reported that the draft report on the joint regional meeting was provided in the mailing for review and moved that CAC approve it. Curtis seconded the motion and the report was approved. The report will be considered by CNRAC at its meeting next week. She also reported that a summary of the severance tax educational session was also provided, and would be posted on the CAC website.

Cynthia suggested that both councils meet jointly in May or June to be briefed on the proposed Growing Greener III; the coalition has hired an executive director, Andrew Heath, who should be invited, and CAC and CNRAC members who are on the coalition could present the briefing. She also suggested that the councils identify other issues of joint interest to take full advantage of a joint meeting.

Water—Burt distributed information to be discussed by the Water Resources Advisory Committee at its meeting reporting on the discussions of the TDS task force. The task force was unable to reach consensus, but reported on its discussions and the pros and cons of its recommendations. The committee will try to set up a conference call or a committee meeting in order to meet with Deputy Secretary John Hines and discuss the

current status of a number of water initiatives.

V. ENVIRONMENTAL JUSTICE ADVISORY BOARD UPDATE

DEP's Environmental Advocate, Nora Carreras, reported that her office was also affected by cutbacks, and suggested that EJAB and CAC work together on common issues. Some of EJAB's recent and planned activities include dissemination of a plain language summary of the TDS regulation, and how to address disproportionate impacts of changes to the definition of hazardous waste.

EJAB will be reviewing how Pennsylvania identifies Environmental Justice communities, especially in rural areas. The definition used to use race and income to define an EJ community; because of the size of census tracts in rural areas, poor rural communities fall through the cracks. EJAB is also reviewing and revising the EJ Workgroup report from some years ago. They look forward to working with CAC on common issues.

VI. DEPARTMENT REPORT

Secretary Hanger responded to a request about gas well drilling in floodplains and referred to a summary provided by BOGM. He reported that DEP is looking at the specific cases reported, and options for addressing the concerns being raised. He then suggested that he respond to any questions members may have.

Walter asked if DEP had any position on House Bill 2304, which would prohibit DEP and EQB from promulgating regulations under environmental statutes. The Secretary was not familiar with this particular bill, and could not speak to it directly, but referred to a bill dealing with outdoor wood burners. These type of issues are best sorted out through the EQB public participation process.

Burt asked if proposed federal incentives (loan guarantees) for nuclear was expected to generate any activity in Pennsylvania. Secretary Hanger responded that PPL plans to build a new unit at its Susquehanna facility.

Eric asked about the permitting meeting with the General Assembly. Secretary Hanger reported that he and Barb Sexton had met with the Policy Committee to discuss permitting processes, limitations, and opportunities for improvement. He reiterated that each of DEP's permitting programs has individual requirements, so a one-size-fits-all electronic permitting system won't easily work. Eric stated that of the 45,000 or so authorizations that DEP handles each year, the majority proceeds with no problem and go unnoticed; discussions are dominated by the lesser number which have problems.

Dave asked how fee increases might impact relevant programs, in particular, mining. The Secretary responded that permit fees in the mining program have become critical; the department had moved staff on to specific funding streams in order to protect the positions when the General Fund appropriation to DEP was cut, and that the programs' current fees are not sufficient to fully fund the program. He stated that the mining program was in a position of having to return federal operating grant monies due to an insufficient amount of matching state funds. Dave asked if there are other sanctions that

we may have to deal with. The Secretary acknowledged that ultimately, primacy of the delegated programs may be at risk of being turned back to the relevant federal agency. If there isn't money to do something, it either isn't going to get done, or it will be done very slowly.

He thanked Council for its involvement.

VII. BUDGET 101

Deputy Secretary for Administration Patrick McDonnell gave an overview of the DEP budget is structured. DEP is a medium sized agency but has a very complicated budget. It has 25 different appropriations that it manages from the General Fund, 20 special funds, 14 restricted accounts, as well as federal funding. Some programs are 100% federally funded (BAMR), some are 100% state funded (deep mining), and some are somewhere in between. Programs which are heavily reliant on the General Fund (e.g. mining) are disproportionately affected when there are cuts in state funding. Special funds can keep the interest generated while interest generated by restricted accounts goes back to the General Fund.

Regarding the mining program's return of federal funds, Patrick stated that in 2008, we received a \$2 million increase in Title V (surface mining enforcement) federal funds because Pennsylvania had been overmatching the federal grant and seeking additional funds for several years; this increase occurred just as a hiring freeze and travel ban were imposed, so the program was not able to take full advantage of the increased funds. This program is entirely dependent on the General Fund for the state match.

Gail asked about what percentage of the DEP budget was for contracts. Patrick indicated that he would get back to Council with that information.

Jolene asked how funds legislatively earmarked in a special or restricted fund can get moved to other uses such as balancing the state budget. It occurs through the legislative budget process, and the best defense is to not carry large balances in any of its funds.

Eric asked whether SAP has helped or hindered DEP's ability to manage its resources and accounts. Patrick indicated that it has helped them better manage their accounts. He noted that it is a tool that helps them track where things stand but things that are in process may not be reflected until they are final, so the snapshot may not be fully current.

The Governor's proposal includes \$14.3 million for General Government Operations, \$32.4 million for Environmental Program Management and \$84.2 million for Environmental Protection Operations. The numbers listed for the upcoming budget year appear to be a 1% decrease, but this decrease is already in place due to the budgetary reserves implemented in January, so the budget is essentially a flat budget. The General Fund amounts are actual monies available to the department; other funds and amounts shown are spending authorizations; if the money is available and if the authorized need is there, the department is authorized by the final budget to spend it in those areas. He reminded Council that the Governor's budget is the starting proposal, and that any part of it could change as it goes through the process.

Cynthia asked about how the amounts in the department budget relate to the amounts listed in the special fund reports. For example, the amount shown under the Special Funds reports for Growing Greener is different than the amount shown for the same line item in the department budget presentation. Patrick indicated that against the he would ask budget staff to look at these and provide an explanation.

Regarding the hiring freeze, he indicated that DEP had received exceptions for Oil and Gas, Radiation Protection (with regard to Agreement State activities) and engineers needed for ARRA activities.

VIII. NEW BUSINESS

At the February meeting, Council had planned to draft a letter regarding the turn back of federal funds. Eric moved and Peter seconded that Council instead address this issue as part of phase 2 of the transition project.

Sue reported that we expect to see the Act 54 5-year report later this year. Given DEP's recent finding that mining was the cause of the damage at Ryerson Station, should we ask that this situation be addressed in the report? Burt indicated that while there are experts on both sides of the issue, and that it needs to play out in the court case. However, it would be appropriate to ask for an update on the 5 year report before it is finalized, and that we also ask for a briefing on the issue of the 35 degree angle of draw (the last 5-year report suggested that the 35 degree angle of draw may not be an appropriate threshold for presumption of liability; has DEP given any consideration to better measures?)

Dan announced that Mike Sherman is retiring as Deputy for Field Operations; Kelly Heffner will become Acting Deputy for Field Operations.

Joyce asked for a motion to adjourn the meeting. Curtis so moved, Jan seconded the motion. The meeting was adjourned at 2:35 pm.

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Notice of the March meeting was published in a newspaper of general circulation in Dauphin County and mailed to individuals and offices in compliance with the Sunshine Act (1986-84). These minutes constitute the official record of the Citizens Advisory Council meeting; no official transcript is prepared.